

Appln. No. 10/029,326

Attorney Docket No. 10541-282

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**II. Remarks**

In response to the Office Action mailed June 21, 2006, kindly enter the foregoing amendment and consider the following remarks. An appropriate petition for a one month extension of time, with fee, is enclosed herewith. This response is being filed within the extended deadline. Pursuant to 37 CFR §1.112, Applicant requests reconsideration of each and every ground of rejection set forth in the Office Action.

The Office Action and the references cited therein have been carefully considered. Claims 1-26 are pending and are at issue herein. In view of the following remarks, favorable reconsideration of this application is requested.

**CLAIM REJECTIONS UNDER 35 USC §102 and §103**

Claims 1-6, 23 and 24 stand rejected under 35 U.S.C. §102(e) as being anticipated by the Morohashi reference (U.S. Patent Application Publication No. 2005/0141367). Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the Morohashi reference. Claims 7, 8 and 10-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Morohashi reference in view of the Janik reference (U.S. Patent Application Publication No. 2002/0164973).

In sum, all the claims stand rejected over either the Morohashi reference, or the Morohashi reference in combination with the Janik reference. The earliest U.S. filing date to which the Morohashi reference can claim priority is September 20, 2000. The earliest U.S. filing date to which the Janik reference can claim priority is October 20, 2000. The Office Action has applied the Morohashi and Janik references as prior art under 35 U.S. C. §102(e)(1) which recites that "the invention was described in an application for patent, published under Section 122(b), by another filed in the United States before the invention by the Applicant for patent".

The Applicant files herewith the Declaration of Gregory Roger Hamel, the sole inventor of the present application. Mr. Hamel's Declaration states that he conceived the invention in the United States prior to September 20, 2000 and prior to October 20, 2000. This is supported by the Invention Disclosure attached to Mr. Hamel's

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Declaration and attest to by Mr. Hamel. The specific dates have been redacted for obvious reasons. Mr. Hamel further declares that the claimed invention was diligently worked on from a date prior to September 20 and October 20, 2000 until the filing date of the instant application.

Accordingly, the Morohashi reference and the Janik reference cannot be applied against the instant application as they do not qualify under 35 U.S.C. §102(e).

For these reasons, it is respectfully submitted that the rejections contained in the Office Action of June 21, 2006 must be withdrawn. Favorable reconsideration is respectfully requested.

#### CONCLUSION

In view of the preceding amendments and remarks, the Applicant respectfully submits that the specification is in order and that all of the claims are now in condition for allowance. If the Examiner believes that personal contact would be advantageous to the disposition of this case, Applicant respectfully requests that the Examiner contact the Attorney of the Applicant at the earliest convenience of the Examiner.

Respectfully submitted,

10/19/06  
Date

  
Michael N. Spink (Reg. No. 47,107)

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